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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,253	10/30/2003	George Melkonian	660023.406C1	2542

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EXAMINER

DIXON, MERRICK L

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,253

Applicant(s)

MELKONIAN, GEORGE

Examiner

Merrick Dixon

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1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on election of 8-16-04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 12-19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10-30-03 & 1-08-04.

- 4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

MERRICK DIXON
PRIMARY EXAMINER

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Claims 12-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8-16-04.

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Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, the phrases, "highly weatherable" and "highly paintable" are indefinite and not understood. Applicants are requested to provide better claim language for examination. Claim 11 depend on claim 10, and thus is indefinite as well.

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Claims 3-5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, line 3, the word, "substantial" is indefinite as one of ordinary skill in the art would be unable to ascertain an exact amount/concentration is the cellulosic fiber content . Applicants are requested to provide better claim language for examination.

Claims 4 and 5 depend on claim 3, and thus are themselves indefinite as well.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-6 rejected under 35 U.S.C. 102(b) as being anticipated by European Patent (WO 99/51425).

The cited WO'425 patent substantially teaches the claimed invention including a multi-component , longitudinal and continuous extrusion(100) comprising first composite member consisting of a thermoplastic component and a cellusic fiber component(10) – see table 1 and page 5, lines 6-8; and second composite member comprising foamed thermoplastic polymer(20)- see figures 1 & 4. Concerning claims 2,4, the cited reference teaches PVC as principle component for its foamed second component- see table 1. Concerning claim 5, the cited reference also teaches styrene acrylonitrile on page 7, lines 10-17. Concerning claim 6, the cited reference teaches the second component laterally adjacent and longitudinally coextensive to the first component- see figs 1,2,4. Concerning claim 3, it is submitted that the patented foamed component would possess ,”substantial”, fiber content as claimed and as best understood/interpreted.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent(WO 99/51425) in view of Turk et al(US 5,738,935). The primary reference to WO' 425 substantially teaches the claimed invention including a multi-component , longitudinally , continuous extrusion comprising first nd second composite members bonded together- see section 18 above, inter alia. The cited primary reference fails to teach an additional and third member adjacent and coextensive with its patented first and second members. The reference to Turk et al, however, teaches that it is known in the art to facilitate similar patented extrusion as taught by the primary reference with weather seal, i.e., cap material- col 10, lines 26-40. It would have been obvious to one of ordinary skill in the art at the time the invention is made to facilitate the primary reference with similar weather seals as taught by Turk et al to further facilitate additional protection from the exposure of climatic conditions. Such a combination would be further obvious in the absence of unexpected results. Concerning claim 10, It is submitted the cited references teaches such highly weatherable and paintable polymer, as claimed and as can be understood.

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Claims 7,8 and 11 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Finley(6054207) is cited of interest to show capping layers in the art.

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Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). **NOTE: All facsimiles sent to the examiner's**

personal fax number should be in draft-forms and will be treated as informal.

Same facsimiles will not be entered in the related applications unless otherwise agreed and noted by the examiner.

The fax number for all other fascimile is 703-872-9306.

Information about **the status of an application** may be obtained from the Patent Information Retrieval system (**Private PAIR**).

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Status inquires for **published applications** may be retrieved from either **Private PAIR** or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic Business Center at **866-217-9197**.

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Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays to Thursdays, between 12 noon and 8 PM, eastern time . The examiner's supervisor, Mrs. Rena Dye, can be reached at 571-272-3186.

A handwritten signature in black ink, appearing to read 'Merrick Dixon', with a stylized, cursive script.

Merrick Dixon

Primary Examiner

Group 1700